

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
No. 3:22-cv-191

KANAUTICA ZAYRE-BROWN,

Plaintiff,

v.

NORTH CAROLINA DEPARTMENT OF
ADULT CORRECTION, et al.,

Defendants.

**DEFENDANTS' NOTICE IN RESPONSE
TO THE COURT'S INJUNCTION**

On April 16, 2024, the Court entered an order granting, in part, summary judgment in favor of Plaintiff and denying Defendants' motion for summary judgment. DE 116. In that order, the Court entered an injunction directing Defendants to either notify the Court of their intention to accommodate Plaintiff's requested surgery or to form a new committee containing two medical doctors with gender dysphoria expertise to re-assess Plaintiff's accommodation request and submit a roster of the reconstituted committee to this Court for approval. DE 116 at 7-8. Immediately thereafter, Defendants began the process of trying to identify medical doctors who would be willing and able to participate in the process mandated by the Court. However, Defendants filed a notice of appeal on May 15, 2024, and sought a stay on May 16, 2024. DE 117, DE 118. In the motion for a stay, Defendants requested that if this Court denied the motion for a stay that it provide them an additional 14 days to submit notice to the Court with the names of the people it proposes to sit on a newly formed committee. DE 118 at 1.

On July 12, 2024, the Court denied Defendants' motion for a stay and ordered Defendants to form a new committee containing at least two medical doctors with gender dysphoria expertise to re-assess Plaintiff's accommodation request and submit a roster of the reconstituted committee

to this Court for approval, within 14 days. DE 126 at 12. On July 17, 2024, Defendants moved for a stay in the Fourth Circuit Court of Appeals, which was denied on July 25, 2024. DE 127. Therefore, as required by the Court, Defendants propose the following committee members and process for this reassessment.

A. Defendants' Proposed Committee Members

Ingrid Renberg, MD, MPH, MSL – Dr. Renberg is WPATH certified and is a psychiatrist licensed in Pennsylvania. Dr. Renberg currently serves as the Statewide Psychiatric Medical Director for Centurion in Pennsylvania, which provides healthcare services to the state prisons in Pennsylvania. She earned her Master of Public Health and Medical Degree from St. George's University. Thereafter, she completed a Psychiatry Residency at the University of Connecticut Health Center, followed by a Child Psychiatry Fellowship at Allegheny General Hospital and a Forensic Psychiatry Fellowship at the Western Psychiatric Institute and Clinic in Pittsburgh, Pennsylvania. Dr. Renberg has extensive experience evaluating and treating patients with gender dysphoria. She also evaluates requests for gender affirming surgery for the Pennsylvania state prison system. A copy of Dr. Renberg's CV is attached hereto as Ex. A. Dr. Renberg's hourly rate for this review is \$500.

Eugene F. Simopoulos, MD – Dr. Simopoulos is a board certified general and forensic psychiatrist who is licensed in Virginia. He currently serves as the Forensic Medical Director of the Western State Hospital in Staunton, Virginia. Dr. Simopoulos earned a Medical Degree from the George Washington University School of Medicine and Health Sciences, where he also completed a Psychiatry Residency. Additionally, Dr. Simopoulos completed a Fellowship in Forensic Psychiatry at the University of Virginia Department of Psychiatry and Neurobehavioral Sciences. Dr. Simopoulos is familiar with WPATH and its published standards. His professional

experience related to gender dysphoria includes presenting Grand Rounds on *Principles in the Evaluation and Treatment of the Transgender Patient* and monitoring the needs of the transgender inmate population on the Transgender Advisory Committee for the D.C. Department of Corrections. Dr. Simopoulos has also published articles and given lectures related to providing care to transgender patients in the carceral setting. In addition, Dr. Simopoulos has extensive experience evaluating and treating patients with gender dysphoria in jails and prisons. A copy of Dr. Simopoulos's CV is attached hereto as Ex. B. Dr. Simopoulos's hourly rate for this review is \$400.

B. Proposed Process For Reassessing Plaintiff's Surgery Request.

As required by the Court, Defendants would ask this new committee to review Plaintiff's medical records and provide findings as to whether Plaintiff's requested vulvoplasty is medically necessary. To accomplish this review and determination, Defendants propose providing to each of these committee members the following materials:

- The medical records found at Defendants' Exhibit 8 entered into evidence during the February 20, 2024, hearing.
- Plaintiff's entire health chart from her admission into the Department's custody in October 2017 through the present.
- The results of the psychometric assessments performed by Plaintiff's expert, Randi C. Ettner, Ph.D., and Defendants' expert, Sara Boyd, Ph.D.

Defendants would ask each committee member to conduct an independent record review to assess whether the requested surgery is medically necessary. Following this record review, the committee members would meet virtually to discuss their conclusions. If a consensus is reached, then the committee would submit a report that articulates their consensus, to include an explanation

of the formulation of medical necessity applied and the bases for reaching their consensus. If there is no consensus, then each committee member would submit their own report that articulates their own conclusions, to include an explanation of the formulation of medical necessity applied and the bases for reaching their conclusions.

With respect to timing, Defendants respectfully note that each of the proposed committee members has substantial professional responsibilities and require sufficient time to conduct a review and prepare a report. Therefore, absent any unforeseen developments, Defendants propose that the record review and the committee meeting occur within 30 days of the entry of an order approving the new committee and that the consensus report or individual reports be submitted to Defendants' counsel within 45 days of the entry of an order approving the new committee.

This the 26th day of July 2024.

JOSHUA H. STEIN
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